

असाधारण

# **EXTRAORDINARY**

भाग II--लण्ड 1

PART II—Section 1

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पूष्ठ संख्या दी जाती हैं जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation

# MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 20th April, 1978/Chaitra 30, 1900 (Saka)

# THE DADRA AND NAGAR HAVELI SALES TAX REGULATION, 1978

No. 2 of 1978

Promulgated by the President in the Twenty-ninth Year of the Republic of India.

A Regulation to impose a tax on the sale of certain goods in the Union territory of Dadra and Nagar Haveli and to provide for matters connected therewith.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

- 1. (1) This Regulation may be called the Dadra and Nagar Haveli Sales Tax Regulation, 1978.
- (2) It extends to the whole of the Union territory of Dadra and Nagar Haveli.
- (3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.
  - 2. In this Regulation, unless the context otherwise requires,—

(a) "Administrator" means the Administrator of Dadra and Nagar Haveli appointed by the President under article 239 of the Constitution;

Short title, extent and com. mencement.

Definitions.

#### (b) "business" includes--

- (i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern; and
- (ii) any transaction of buying, selling or supplying plant, machinery, raw materials, processing materials, packing materials, empties, consumable stores, waste products, or such othe goods, or waste or scrap of any of them, which is ancillary incidental to or resulting from such trade, commerce, manuture, adventure or concern;

but does not include any activity in the nature of mere profession;

- (c) "Commissioner" means the Commissioner appointed under sub-section (1) of section 3;
- (d) "dealer" means any person engaged in buying, selling, supplying or distributing goods, direwise, in Dadra and Nagar Haveli and includes a casthe Government of India, or of any State, or of any U

Explanation 1.—A Hindu undivided family, other association of persons whether incorpordeemed to be a person for the purpose of t

Explanation 2.—A co-operative socie

extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods, but does not include such manufactures or manufacturing processes as may be prescribed;

- (h) "Official Gazette" means the Gazette of India;
- (i) "prescribed" means prescribed by rules made under this Regulation;
- (j) "raw materials" mean goods which go into and form part of the finished product and include materials which are consumed in the process of manufacture;
  - (k) "registered" means registered under this Regulation;
- (1) "sale", with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or deferred payment or other valuable consideration, and includes a transfer of goods on hire-purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of or a charge or pledge on goods.

Explanation.—A sale or purchase of goods shall be deemed to take place inside Dadra and Nagar Haveli if the goods are within that territory,—

- (i) in the case of specific or ascertained goods, at the time the contract of sale is made; and
- (ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether assent of the other party is prior or subsequent to such appropriation;
- (m) "sale-price" means the amount paid or payable to a dealer as consideration for the sale of any goods, excluding any sum allowed as cash discount or trade discount according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof, other than the cost of freight or delivery, the cost of installation or the cost of insurance for transit in cases where such cost is separately charged;
- (n) "turnover" means the aggregate of the sale-prices received and receivable by a dealer in respect of any taxable goods made during a given period after deducting therefrom—
  - (i) the amount arrived at by applying the following formula:—

Rate of tax × aggregate of sale-prices

100 plus rate of tax:

Provided that no deduction on the basis of above formula shall be made if the amount by way of tax collected by a registered dealer in accordance with the provisions of this Regulation, has been otherwise deducted from the aggregate of sale-prices.

Explanation.—Where the turnover of a dealer is taxable at different rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to a different rate of tax:

(ii) the amount of sale-prices of all taxable goods returned to the dealer, within the prescribed period, by the purchasers of such goods:

Provided that satisfactory evidence of such return of goods and of refund or adjustment in accounts of the sale-price thereof is produced before the assessing authority;

(o) "year" means a financial year, but in relation to any particular registered dealer for the purposes of this Regulation (except for the purposes specified under sections 4, 5, 12, 13, 14 and 15) means the year with reference to which, according to the option declared by such dealer within the prescribed period, the accounts of that dealer are ordinarily maintained in his books:

Provided that where an option has once been exercised by a registered dealer, he shall not, except with the consent of the Commissioner and upon such conditions as the Commissioner may determine, make any variation in respect thereof.

Taxing author rities.

- 3. (1) For carrying out the purposes of this Regulation, the Administrator may appoint a person to be a Commissioner of Sales Tax, and such other persons to assist him as he thinks fit.
- (2) The persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Regulation.
- (3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Incidence of tax.

4. (1) With effect from such date as the Administrator may, by notification in the Official Gazette, appoint, being not earlier than thirty days after the date of the said notification, every dealer whose gross turnover during the year immediately preceding the commencement of this Regulation exceeded the taxable quantum shall be liable to pay tax under this Regulation on all sales effected after the date so notified:

Provided that different dates may be appointed for goods—

- (i) specified in the First Schedule;
- (ii) specified in the Third Schedule;
- (iii) not specified in any Schedule:

Provided further that a dealer who deals exclusively in one or more classes of goods specified in the Second Schedule or in respect of which no date has been appointed, shall not be liable to pay any tax under this Regulation.

(2) Every dealer to whom sub-section (1) does not apply, shall, if his gross turnover calculated from the commencement of any year exceeds the taxable quantum at any time within such year, be liable to pay tax

under this Regulation, on the expiry of one month from the date on which such gross turnover first exceeds the taxable quantum, on all sales effected after such expiry:

Provided that a non-resident dealer or a casual trader shall be liable to pay tax on sales effected after the date on which his gross turnover first exceeds the taxable quantum.

- (3) Every dealer who has become liable to pay tax under this Regulation shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this latter period his liability to pay tax shall cease.
- (4) Every dealer whose liability to pay tax under this Regulation has ceased under the provisions of sub-section (3), shall, if his gross turn-over calculated from the commencement of any year again exceeds the taxable quantum at any time within such year, be liable to pay such tax on the expiry of two months from the date on which such gross turnover again first exceeds the taxable quantum on all sales effected after such expiry:

Provided that a non-resident dealer or a casual trader shall be liable to pay tax on sales effected after the date on which his gross turnover first exceeds the taxable quantum.

- (5) In this Regulation, the expression "taxable quantum" means,-
- (a) in relation to any dealer who imports or brings for sale any goods into Dadra and Nagar Haveli, or to whom any goods are despatched from any place outside Dadra and Nagar Haveli, for sale or who manufactures or produces any goods for sale, and the value of goods imported or brought, or manufactured, or produced by him or despatched to him, during the year is not less than Rs. 1500 (Rupees one thousand five hundred)—ten thousand rupees:
- (b) in relation to any dealer who imports or brings for sale any goods into Dadra and Nagar Haveli or to whom any goods for sale are despatched from any place outside Dadra and Nagar Haveli, or who manufactures or produces any goods for sale, and the value of goods imported or brought, or manufactured or produced by him or despatched to him, during the year is less than Rs. 1500 (Rupees one thousand five hundred)—twenty thousand rupees;
- (c) in relation to a non-resident dealer who has no place of business in Dadra and Nagar Haveli but who sells goods therein and a casual trader—one thousand five hundred rupees;
  - (d) in relation to any other dealer—thirty thousand rupees:

Provided that if the Administrator is of opinion that having regard to the difficulty in maintaining accounts or for other sufficient cause the taxable quantum in respect of any class of dealers falling under clause (a), clause (b), or clause (c) should be increased, the Administrator may, by notification in the Official Gazette, fix in respect of such class of dealers such taxable quantum, not exceeding thirty thousand rupees, as may be specified in the notification.

Liability after cancellation of registration. 5. Any dealer whose certificate of registration granted under section 12, section 13, section 14 or section 15 has been cancelled shall, if his gross turnover calculated from the commencement of any year or from any date within the year exceeds the taxable quantum at any time within such year, be liable to pay such tax after the expiry of one month from the date on which such turnover again first exceeds the taxable quantum on all sales, effected after such expiry, of goods imported from outside Dadra and Nagar Haveli or manufactured therein:

Provided that a non-resident dealer or a casual trader shall be liable to pay tax on all sales effected after the date on which his gross turnover again exceeds the taxable quantum.

Liability of dealers registered under Central Sales Tax Act. 6. Every dealer shall, notwithstanding that he is not liable to pay tax under section 4 or section 5, be liable to pay tax under this Regulation so long as he is registered under the Central Sales Tax Act, 1956, on all sales effected by him or on his behalf within Dadra and Nagar Haveli on or after the date of his liability or the date of his registration, whichever is earlier, under the said Act:

74 of 1956,

Provided that no tax shall be payable in respect of sales in any period prior to the commencement of this Regulation.

Rate of tax.

- 7. (1) The tax payable by a dealer under this Regulation shall be levied on the taxable turnover at the following rates, namely:—
  - (a) in respect of goods specified in the First Schedule, at the rate of twelve paise in the rupee;
  - (b) in respect of goods specified in the Third Schedule, at the rate of four paise in the rupee;
  - (c) in respect of any other goods, not being goods specified in the Second Schedule, at the rate of seven paise in the rupee:

Provided that the Administrator may, by notification in the Official Gazette, with the previous approval of the Central Government add to, or omit from, or otherwise amend the First and Third Schedules:

Provided further that, if, in respect of any goods or class of goods the Administrator is of opinion that it is expedient in the interests of the general public so to do, he may, with the previous approval of the Central Government by notification in the Official Gazette, direct that the tax in respect of the taxable turnover of such goods or class of goods shall, subject to such conditions as may be specified in such notification, be levied at such modified rate not exceeding the rate applicable under this sub-section as may be specified in the notification.

- (2) The Administrator or any other person authorised in this behalf may permit dealers, in such circumstances and under such conditions as may be prescribed, to compound the tax assessable on their taxable turn-over under the provisions of this Regulation by paying in lieu thereof a lump sum in such manner as may be prescribed.
- (3) In this Regulation, the expression "taxable turnover" means that part of a dealer's gross turnover during any period which remains after deducting therefrom his turnover during that period on—
  - (I) sales of goods or class of goods which are specified in the Second Schedule, or in respect of which no date has been appointed

under sub-section (1) of section 4, or class of sales exempted from payment of tax payable under section 11;

- (II) sales to a registered dealer, not being the sales of goods which are specified by the Administrator under section 8 as goods taxable at a particular point of sale,—
  - (a) of taxable goods of the class or classes specified in the certificate of registration of such dealer, as being intended for—
    - (i) resale by him within Dadra and Nagar Haveli;
    - (ii) resale by him in the course of inter-State trade or commerce;
    - (iii) resale in the course of export out of India or resale after such export; or
  - (iv) use by him within Dadra and Nagar Haveli, as raw materials for manufacture of taxable goods for sale within Dadra and Nagar Haveli;
  - (b) of containers or other materials for the packing of goods of the class or classes so specified for sale:

Provided that no deduction shall be allowed unless the dealer, who sells the goods, furnishes in the prescribed manner,—

- (a) in the case of sales falling within items (i) and (iv) of sub-clause (a) and within sub-clause (b), a declaration duly filled up and signed by the registered dealer to whom the goods are sold in such form, and containing such particulars, as may be prescribed; and
- (b) in the case of sales falling within items (ii) and (iii) of sub-clause (a), a certificate in the prescribed form from the registered dealer to whom the goods are sold, that the goods are purchased for resale in the course of inter-State trade or commerce or for resale in the course of export out of India or for resale after such export and that such goods will be so resold by himself or by any other registered dealer to whom he resells the goods within nine months from the date of such purchase or such further period as may be prescribed:

Provided further that where any goods specified in the certificate of registration are purchased by a registered dealer for any of the purposes specified in sub-clause (a) or sub-clause (b), but are utilised by him for any other purpose, or are not resold in the manner and within the period prescribed, the price of the goods so purchased shall be allowed to be deducted from the gross turnover of the selling dealer, but the Commissioner or any person appointed under sub-section (1) of section 3 to assist him shall, after giving the purchasing dealer an opportunity of being heard, impose a penalty upon the purchasing dealer not exceeding the amount of tax which would result if such goods were subject to sales tax at the rate leviable on them at the time of their purchase;

(III) sales of goods which are specified by the Administrator under sub-section (2) of section 8 as goods taxable at a point other than a point referred to in sub-section (1) of that section:

Provided that in the case of such sales proof of payment of tax at such point is adduced to the satisfaction of the Commissioner:

(IV) sales to any undertaking supplying electrical energy to the public under a licence or sanction granted or deemed to have been granted under the Indian Electricity Act, 1910, of goods for use by it in the generation or distribution of such energy;

9 of 1910.

(V) sales of goods which are shown to the satisfaction of the Commissioner not to have taken place in Dadra and Nagar Haveli, or to have taken place in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, or in the course of import of the goods into, or export of goods out of, the territory of India, within the meaning of section 5 of the said Act;

74 of 1956.

(VI) such other sales as may be prescribed.

Power of Administrator to prescribe points at which goods may be taxed.

- 8. (1) The tax payable under this Regulation shall be levied on the taxable turnover at the point of sale to the consumer or to a person other than a registered dealer.
- (2) Notwithstanding anything contained in sub-section (1) or elsewhere in this Regulation, the Administrator may, by notification in the Official Gazette and subject to such conditions, if any, as may be specified therein, specify the point of sale in the series of sales by the first or the successive dealers as the point at which any goods or class of goods may be taxed, and on the issue of such notification, the sales at points of sales in relation to any such goods or class of goods other than the point of sale so notified, shall be exempted from payment of tax under this Regulation.

Burden of proof.

9. The burden of proving that in respect of any sale effected by a dealer he is not liable to pay tax under this Regulation shall be on him.

Tax-free goods.

- 10. (1) No tax shall be payable under this Regulation on the sale of goods specified in the Second Schedule subject to the conditions and exceptions, if any, set out therein.
- (2) The Administrator may, with the previous approval of the Central Government, by notification in the Official Gazette, add to or omit from, or otherwise amend, the entries in the Second Schedule.

Exemption.

- 11. (1) Subject to such conditions as he may impose, the Administrator may, if he considers it necessary so to do in the public interest, by notification in the Official Gazette, exempt any specified class of dealers or any specified class of sales from payment of the whole or any part of any tax payable under this Regulation.
- (2) Where any specified class of dealers or class of sales is exempt from payment of tax under sub-section (1) and if there be a breach of any of the conditions subject to which such exemption was granted, the seller, in case he is responsible for such breach, shall be liable to

pay tax on such sales as if no such exemption had been granted notwithstanding that he may not be liable to pay tax under section 4. But if the purchaser is responsible for the breach, the Commissioner or any person appointed under sub-section (1) of section 3 to assist the Commissioner shall, after giving the purchaser a reasonable opportunity of being heard, impose upon him a penalty not exceeding one and a half times the amount of tax which would result if such goods were subject to sales-tax at the rate leviable at the time of their purchase.

- (3) If the Commissioner or any person appointed under sub-section (1) of section 3 to assist the Commissioner, has reason to believe that the seller is liable to pay tax under sub-section (2), the Commissioner or such person shall, after giving the dealer a reasonable opportunity of being heard, assess the amount of tax so due.
- 12. (1) No dealer shall, while being liable to pay tax under section 4 or section 6, carry on business as a dealer unless he has filed an application in accordance with sub-section (2) or has been registered and possesses a registration certificate under this Regulation.

Registration of dealers.

- (2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in such manner, within such time, and to such authority, as may be prescribed.
- (3) If the prescribed authority is satisfied that the application for registration is in order, it shall, in accordance with such procedure as may be prescribed register the applicant and grant him a certificate of registration in the prescribed form which shall specify all his places or business and the class or classes of goods, for the purpose of clause (II) of sub-section (3) of section 7.
- (4) The prescribed authority may, from time to time, amend any certificate of registration in accordance with information furnished to it under section 26 or otherwise received.
- (5) The Commissioner may, for good and sufficient reasons, demand from a registered dealer or from a person who has applied for registration under this Regulation—
  - (i) reasonable security for the proper payment of tax payable by him under this Regulation;
  - (ii) reasonable security for the proper custody and use of the forms referred to in the first proviso to clause (II) of sub-section (3) of section 7 which may be given to him by the prescribed authority.
- (6) When any dealer has been convicted or has paid composition money under section 38 in respect of any contravention of sub-section (1) of this section, the prescribed authority shall register such dealer and grant him a certificate of registration, and such registration shall take effect as if it had been made under sub-section (3) of this section or upon the dealer's application.

#### (7) When—

(a) any business in respect of which a certificate has been granted to a dealer on an application made, has been discontinued or transferred, or

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(b) a dealer has ceased to be liable to pay tax under section 4 of this Regulation,

the Commissioner shall cancel the registration.

(8) The Commissioner may, at any time for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, cancel any certificate of registration.

Voluntary registration

- 13. (1) Any dealer, other than a dealer who deals exclusively in one or more classes of goods specified in the Second Schedule or in respect of which no date has been appointed under sub-section (1) of section 4, whose gross turnover during a year exceeds ten thousand rupees may, notwithstanding that he may not be liable to pay tax under section 4, apply in the prescribed manner to the prescribed authority for registration under this Regulation.
- (2) The provisions of sub-sections (3), (4), (5), (7) and (8) of section 12 shall apply in respect of applications for registration under this section.
- (3) Every dealer who has been registered upon application made under this section shall for so long as his registration remains in force be liable to pay tax under this Regulation.
- (4) The registration of a dealer upon an application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Regulation.
- (5) Subject to the provisions of sub-section (4), a dealer registered upon application made under this section may apply in the prescribed manner not less than six months before the end of a year to the authority which granted him a certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made; and the said authority shall, unless the dealer is liable to pay tax under section 4, cancel the registration accordingly.

Provisional regis tration.

- 14. (1) Any person who intends to establish a business in Dadra and Nagar Haveli for the purpose of manufacturing or producing goods of a value exceeding ten thousand rupees per year, may, notwithstanding that he is not required to register himself under section 12, apply in the prescribed manner to the prescribed authority for provisional registration under this Regulation.
- (2) If the said authority, after making such inquiries as it may consider necessary, is satisfied as to the bona fide intention of the person making the application, it may grant a provisional certificate of registration on such person furnishing such security as it may consider necessary and shall specify in such certificate the class or classes of goods for the purpose of clause (II) of sub-section (3) of section 7.
- (3) Every person who has been granted a provisional certificate of registration under this section shall, for so long as such certificate is in force, be liable to pay tax under this Regulation.
- (4) A provisional certificate of registration granted under this section shall be in force for such period as may be specified therein and the provisions of sub-sections (4), (7) and (8) of section 12 shall, so far as may be, apply to any such certificate of registration.

15. (1) No dealer shall, while being liable to pay tax under section 5, carry on business as a dealer unless he has applied for a special certificate of registration.

Special registration.

- (2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority.
- (3) If the prescribed authority is satisfied that the application for special certificate is in order, it shall, in accordance with such rules as may be prescribed, grant a special certificate to the applicant in the prescribed form:

Provided that the special certificate shall not specify the class of goods for the purposes of clause (II) of sub-section (3) of section 7.

- (4) The prescribed authority may from time to time amend any special certificate in accordance with the information furnished under section 26 or otherwise received by him.
- (5) The provisions of sub-section (3) of section 4 and sub-sections (6) and (7) of section 12 shall apply for registration under this section.
- 16. Notwithstanding anything to the contrary in this Regulation, when the certificate of registration of any dealer is cancelled on the ground of discontinuance of his business, the price of all goods purchased by him on the strength of his certificate of registration shall be included in his taxable turnover.

Taxable turnover where certificate of registration is cancelled.

- 17. (1) Tax payable under this Regulation shall be paid in the manner hereinafter provided at such intervals as may be prescribed.
- Payment of tax and re-turns.
- (2) Such dealers as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish such returns of the total turnover of the period to which such returns relate, in such manner, by such date, and to such authority, as may be prescribed.
- (3) Before any registered dealer furnishes the returns required by sub-section (2), he shall pay into a Government treasury or in such other manner as may be prescribed the full amount of tax due from him under this Regulation according to such returns, and shall furnish along with the returns a receipt from such treasury showing the payment of such amount.
- (4) If any dealer discovers any omission or other error in any return furnished by him, he may at any time before the date prescribed for the furnishing of the next return by him furnish a revised return, and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section (3) of the extra amount:

Provided that no such revised return shall be considered as such and it shall not be taken into consideration if the assessing authority is satisfied that the return originally furnished was with intention to delay the payment of tax due in time, or with intent to defraud the Government of its revenue.

- (5) With a view to encourage prompt payment of tax, the Administrator may prescribe rates of remissions or rebates in respect thereof in accordance with such principles as may be prescribed.
- (6) (a) The amount of tax assessed or reassessed for any period under section 20 or section 21 less any sum already paid by the dealer in respect of such period, and
- (b) the amount of penalty, if any, levied under this Regulation, shall be paid by the dealer or by the person liable therefor into the appropriate Government treasury by such date as may be specified in the notice or order issued under this Regulation, being a date not earlier than sixty days from the date of the service of the notice or order:

Provided that the Commissioner or any person appointed to assist him under sub-section (1) of section 3, may in respect of any particular dealer or person and for reasons to be recorded in writing, extend the date of such payment, or allow him to pay the tax due or penalty, if any, or both by instalments.

- (7) (a) When a dealer is in default in making payment of the tax assessed or reassessed or of penalty imposed, the Commissioner may in his discretion direct that, in addition to the amount of arrears a sum not exceeding six per cent. thereon per annum by way of interest plus a penalty equal to the amount of such interest shall be recovered from the dealer.
- (b) Any amount of tax or penalty which remains unpaid after—the date specified in the notice for payment, or in the order of imposition of penalty, or after the extended date of payment and any instalments not dury paid, shall be recoverable as an arrear of land revenue.
- (8) The Administrator may, by general or special order published in the Official Gazette, authorise any officer not below the rank of a Sales Tax Officer, to exercise, for the purpose of effecting recovery of the amount of tax or penalty due from any dealer or person under this Regulation, the powers of the Collector under the Dadra and Nagar Haveli Land Revenue Administration Regulation, 1971, to recover the dues as arrears of land revenue.

2 of 1971.

Special mode of recovery.

- 18. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time, or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last address known to the Commissioner, require,—
  - (a) any person from whom any amount of money is due or may become due to the dealer who has failed to pay the amount of tax due or penalty imposed under this Regulation, or
  - (b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or at, or within, the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by a dealer in respect

of the arrears of tax and penalty, or both, of the whole of the money when it is equal to or less than that amount.

Explanation.—For the purpose of this sub-section the amount of money held due to a dealer from, or money held for or on account of a dealer by, any person, shall be calculated after deducting therefrom such claims, if any, lawfully subsisting as may have fallen due for payment by such dealer to such person.

- (2) The Commissioner may at any time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.
- (3) Any person making payment in compliance with a notice under this section shall be deemed to have made payment under the authority of the dealer, and the receipt of the Commissioner shall constitute good and sufficient discharge of the liability of such person, to the extent of the amount referred to in the receipt.
- (4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty whichever is less.
- (5) Where a person to whom a notice under this section is sent objects to it by a statement in writing that the sum demanded or any part thereof is not due or payable to the dealer or that the amount held for, or on account of, the dealer is under genuine dispute, the Commissioner shall hold an enquiry and after giving a reasonable opportunity of being heard to such person and the dealer, shall make such order as he thinks fit.
- (6) Any amount of money which a person is required to pay to the Commissioner or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.
- 19. No person who is not a registered dealer shall collect in respect of any sale by him of goods in Dadra and Nagar Haveli any amount by way of tax under this Regulation and no registered dealer shall make any such collection except in accordance with this Regulation and the rules made thereunder.

Collection of tax only by registered dealers.

20. (1) The amount of tax due from a registered dealer shall be assessed separately for each year during which he is liable to pay the tax:

Assessment of tax.

Provided that, when such dealer fails to furnish any return as required under sub-section (2) of section 17 relating to any period of any year, by the prescribed date and in the prescribed manner, the Commissioner may, if he thinks fit, assess the tax due from such dealer separately for different parts of such year:

Provided further that the Commissioner may, subject to such conditions as may be prescribed, and for reasons to be recorded in writing, assess the tax due from any dealer during a part of a year.

- (2) (a) The Commissioner, for the purpose of satisfying himself that the returns furnished by a dealer are correct and complete, may require the presence of the dealer if he thinks it necessary or the production of further evidence and shall serve on such dealer in the prescribed manner a notice requiring him, on a date and at a place specified therein, either to attend and produce or cause to be produced all evidence on which such dealer relies in support of his returns, or to produce such evidence as is specified in the notice.
- (b) If the Commissioner is satisfied that the returns furnished in respect of any period are correct and complete he shall assess the amount of tax due from the dealer on the basis of such returns.
- (c) If the Commissioner is not satisfied that the returns furnished in respect of any period are correct and complete, he shall, after considering all the evidence which may be produced and after giving the dealer an opportunity of being heard, assess to the best of his judgment the amount of tax due from the dealer.
- (d) If a dealer fails to comply with the terms of any notice issued under clause (a) the Commissioner shall assess to the best of his judgment the amount of tax due from him.
- (3) If a dealer does not furnish return as required under sub-section (2) of section 17 in respect of any period by the prescribed date, the Commissioner may serve on the dealer in the prescribed manner a notice requiring him, on a date and at a place specified therein, either to attend and produce or cause to be produced such evidence as is specified in the notice, and after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgment, the amount of tax, if any, due from him.
- (4) In assessing the dealer under any of the clauses (b), (c) and (d) of sub-section (2), or sub-section (3), if the Commissioner has reason to believe that the dealer has failed, without sufficient cause, to comply with the requirements of sub-section (2) or sub-section (3) or sub-section (4) of section 17, shall after giving such dealer a reasonable opportunity of being heard, direct him, either at the time of assessment or thereafter, to pay by way of penalty in addition to the amount of tax assessed a sum not exceeding one and a half times the amount of tax so assessed.
- (5) (a) If the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period but has failed to apply for registration within time as required by section 12, the Commissioner shall proceed to assess the amount of tax due from the dealer in respect of such period, and all subsequent periods, and for this purpose shall serve upon the dealer in the prescribed manner a notice requiring him to be present and produce or cause to be produced all evidence which he may possess or such evidence as is specified in the notice; in assessing the dealer in the manner referred to above a reasonable opportunity of being heard shall be given to him.
- (b) If the dealer fails to comply with the terms of the notice issued under clause (a), the Commissioner may assess to the best of his judgment the amount of tax due from him.

- (c) In any of the assessments made under clause (a) or clause (b), if the Commissioner has reasons to believe that the default in applying for registration within time was made without reasonable cause, he shall, after giving the dealer a reasonable opportunity of being heard, direct him, either at the time of assessment or thereafter, to pay by way of penalty, in addition to the amount of tax assessed, a sum not exceeding one and a half times that amount.
- (6) No assessment under sub-section (2) or sub-section (3) shall be made after the expiry of four years, and no assessment under sub-section (5) shall be made after the expiry of six years, from the end of the year in respect of which, or part of which, such assessment is made:

Provided that, where such assessment is made in consequence of order of revisional authority or of a Court, the period of four years or six years, as the case may be, shall be reckoned from the date of such order:

Provided further that in computing the period of limitation laid down in this sub-section, any period during which assessment proceedings are stayed by an order or injunction of any Court or authority shall be excluded.

- (7) Any assessment made under this section shall be without prejudice to any penalty which may be imposed under other provisions of this Regulation, or to any prosecution instituted for an offence under this Regulation.
- 21. (1) If the Commissioner has reason to believe that any turnover of sales of any goods chargeable to tax under this Regulation, has in respect of any year escaped assessment, or has been under-assessed, or assessed at a lower rate, or that any deductions have been wrongly made, in an order of assessment made under section 20, then the Commissioner may,—

Assessment and reassessment of tax.

- (a) where he has reason to believe that the dealer has concealed such sales or any material particulars relating thereto, or has knowingly furnished incorrect particulars of returns, at any time within eight years, and
- (b) in any other case, at any time within five years of the end of the period to which such turnover or deductions relate,

serve on the dealer liable to pay tax a notice requiring him, on a date and at a place specified therein, either to attend or produce or cause to be produced such evidence as may be specified in the notice, and may proceed to assess or reassess the amount of tax due from such dealer, and accordingly the other provisions of this Regulation and the rules made thereunder shall, so far as may be, apply as if the notice were a notice referred to in sub-section (2) or sub-section (3) of section 20:

Provided that the amount of tax shall be assessed at the rates at which it would have been liable to tax had there been no underassessment or escapement or assessment at a lower rate, but after making deductions, if any, admissible under this Regulation during the period to which the turnover relates.

(2) Nothing in sub-section (1) shall apply to any proceeding, including any notice issued, under section 20.

(3) Any assessment or reassessment made under this section shall be without prejudice to any penalty imposed, or to any prosecution instituted, for an offence under this Regulation.

Refu nd.

- 22. (1) The Commissioner shall, in the prescribed manner, refund to the dealer any amount of tax or penalty paid by such dealer in excess of the amount due from him under this Regulation or unduly paid by him. The refund may arise from an order of assessment or from an order passed in appeal, revision or review under section 31, or reference under section 33, or from an order passed in respect of payment unduly made.
- (2) (a) Where any declared goods referred to in section 14 of the Central Sales Tax Act, 1956 are sold by a dealer in the course of inter-State trade or commerce and such dealer shows to the satisfaction of the Commissioner that a tax under this Regulation has been levied in respect of any earlier sale of such goods made within Dadra and Nagar Haveli then an amount equal to the tax so levied shall be refunded to such dealer in such manner, and subject to such conditions as may be prescribed.
- (b) On receipt of the application for refund referred to above the Commissioner shall, after verifying the claim, make an order either granting or rejecting the application wholly or in part:

Provided that no order rejecting the refund or granting the same in part shall be passed unless the dealer is given an opportunity of being heard.

- (c) If the refund is granted it shall be refunded in the same manner as it is prescribed for refund referred to in sub-section (1).
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Commissioner shall adjust the amount due to be refunded under sub-section (1) or sub-section (2) towards the recovery of any amount due from the dealer on the date of adjustment and shall then refund the balance, if any.
- (4) Nothing in sub-section (1) or sub-section (2) shall be deemed to empower the Commissioner to amend, vary or rescind any assessment or to amend, vary or rescind any order passed in appeal, revision, or review under section 31, or reference under section 33 or to confer on a dealer any relief in addition to what he is entitled under the provisions of this Regulation or section 15 of the Central Sales Tax Act, 1956.

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Accounts.

23. Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (2) of section 17 shall keep a true account of the value of goods bought, and sold by him and if the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section he may require such dealer by notice in writing to keep such accounts (including records of sales) as may be prescribed.

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Power to

call for information, etc.,

to search

and to seize docu-

ments.

- 24. (1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer—
  - (a) to produce before him any accounts, registers or documents, and
  - (b) to furnish any information, relating to the stock of goods of, purchases, sales or deliveries of goods by, the dealer or relating to any other matter, as may be deemed to be necessary for the purpose of this Regulation.
- (2) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, and all goods kept in any place of business of, any dealer, shall, at all reasonable times, be open to inspection by the Commissioner.
- (3) If the Commissioner has reason to suspect that any dealer is attempting to evade payment of any tax under this Regulation he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same and shall retain the same only for so long as may be necessary in connection with any proceeding under this Regulation or for a prosecution.
- (4) For the purposes of sub-section (2) or sub-section (3) the Commissioner may enter and search any place of business of any dealer, or any other place where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business:

Provided that no residential premises shall be entered into and searched by the Commissioner, except on the authority of a searchwarrant issued by a magistrate having jurisdiction over the area.

25. Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers under this Regulation except those under sub-section (2) of section 35 to any person appointed under sub-section (1) of section 3 to assist him.

Detegation of Commissioner's powers.

26. If any dealer to whom the provisions of sub-section (2) of section 17 apply,—

Information regarding changes of business.

- (a) sells or otherwise disposes of his business or any part of his business or any place of business, or effects or comes to know of any other change in the ownership of the business,
- (b) discontinues his business or changes his place of business or opens a new place of business, or
- (c) changes the name or nature of his business or effects any change in the class or classes of goods in which he carries on his business and which is or are specified in his certificate of registration,

he shall within the prescribed time inform the prescribed authority accordingly, and if any such dealer dies, his legal representative shall in like manner, inform the said authority.

Special provision regarding tiability in certain cases.

- 27. (1) Where a dealer, liable to pay tax under this Regulation, dies then,—
  - (a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax due from such dealer under this Regulation;
  - (b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax (including any penalty) due from such dealer under this Regulation.

whether such tax (including any penalty) has been assessed before his death but has remained unpaid, or is assessed after his death.

- (2) Where a dealer, liable to pay tax under this Regulation is a Hindu undivided family, and the joint family property is partitioned amongst the various members or groups of members, then each member or group of members and the legal representative of any such member who is deceased, notwithstanding such partition shall be jointly and severally liable to pay the tax (including any penalty) due from the dealer under this Regulation up to the time of the partition, whether such tax (including any penalty) has been assessed before partition but has remained unpaid, or is assessed after partition.
- (3) Where a dealer liable to pay tax under this Regulation is a firm, or other association of persons, and such firm or association of persons is partitioned or dissolved, as the case may be, then every person who was a partner or member, and the legal representative of any such person or member who is deceased shall, notwithstanding such partition or dissolution, be jointly and severally liable for the payment of tax, penalty or other amount payable under this Regulation by such firm or association of persons, whether such tax including any penalty has been assessed before such partition or dissolution but has remained unpaid, or is assessed after such partition or dissolution.
- (4) Where a dealer, liable to pay tax under this Regulation, transfers or otherwise disposes of his business in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, the dealer and the person succeeding shall jointly and severally be liable to pay the tax (including any penalty) due from the dealer under this Regulation up to the time of such transfer, disposal or change, whether such tax (including any penalty) has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.
  - (5) Where the dealer, liable to pay tax under this Regulation,—
  - (a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or
  - (b) is trustee who carries on the business under a trust for a beneficiary,

then, if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax (including any penalty) due from the dealer up to the time of termination of the guardianship or trust, whether such tax (including any penalty) has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

(6) Where a dealer, liable to pay tax under this Regulation is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or in sub-section (4), then, such person shall be liable to pay tax on the sales of goods made by him on and after the date of such succession, and shall (unless he already holds a certificate of registration) within thirty days thereof apply for registration:

Provided that, where such person resells any goods purchased by the dealer while carrying on business before such succession, he shall be entitled to such deductions in respect thereof as are permissible under sub-section (3) of section 7, had the resale been effected by the dealer himself.

28. (1) Where a dealer liable to pay tax under this Regulation is an individual person and he happens to expire, the tax payable under this Regulation by such individual person, for the period up to the date of his death, shall be assessed as if he was alive and all the provisions of this Regulation shall apply accordingly.

Liability to tax, and assessment of a dealer after his death, of a Hindu undivided family after its partition of a firm or association of persons. after its diasolution, etc.

- (2) Where a dealer liable to pay tax under this Regulation is a Hindu undivided family, a firm, or other association of persons, and such family, firm, or association of persons is partitioned or dissolved, as the case may be, the tax payable under this Regulation by such family, firm or association of persons, for the period up to the date of such partition or dissolution, shall be assessed as if no such partition or dissolution had taken place and all the provisions of this Regulation shall apply accordingly.
- 29. Notwithstanding any contract to the contrary, where any firm is liable to pay tax (including any penalty) under this Regulation, the firm and each of the partners of the firm shall be jointly and severally liable for such payment:

Liability of firms

Provided that, where any such partner retires from the firm, he shall be liable to pay the tax and the penalty (if any) remaining unpaid at the time of his retirement, and any tax (including any penalty) due up to the date of retirement though unassessed at that date.

30. Save as is provided in section 33, no assessment made and no order passed under this Regulation or the rules made thereunder by the Commissioner or any person appointed under sub-section (1) of section 3 to assist him shall be called in question in any Civil Court, and save as is provided in section 31 no appeal or application for revision or review shall lie against any such assessment or order.

Bar to certain proceedings Appeal, revision and review.

31. (1) Any dealer may in the prescribed manner appeal to the prescribed authority against any assessment or reassessment within sixty days from the date of communication of the order appealed against:

Provided that the said authority may entertain the appeal after the expiry of the said period of sixty days, if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time:

Provided further that no appeal shall be entertained by the said authority unless it is satisfied that such amount of the tax as the applicant may admit to be due from him has been paid.

- (2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1) may—
  - (a) confirm, reduce, enhance or annul the assessment, or
  - (b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.
- (3) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner, upon application or of his own motion, may revise any assessment made or order passed under this Regulation or the rules made thereunder by a person appointed under sub-section (1) of section 3 to assist him as aforesaid and the Administrator may, in like manner, revise any order passed by the Commissioner:

Provided that before rejecting any application for the revision of any such order the Commissioner or the Administrator, as the case may be, shall consider it and shall record reasons for such rejection:

Provided further that no application for revision shall lie to the Commissioner in respect of any assessment if an appeal lies under sub-section (1) to the prescribed authority in respect of such assessment.

- (4) Subject to such rules as may be made, any assessment made or order passed under this Regulation or the rules made thereunder by any person appointed under sub-section (1) of section 3 or by the prescribed authority may be reviewed by that person or authority, as the case may be, upon an application or of his or its own motion, as the case may be.
- (5) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

Explanation.—In this section "assessment" includes imposition of penalty.

32. No appeal and no application for revision shall lie against—

Non-appealable orders.

- (1) a notice issued under this Regulation calling upon a dealer for assessment or asking a dealer to show cause as to why he should not be prosecuted for an offence under this Regulation, or
- (2) an order pertaining to the seizure or retention of account books, registers and other documents, or

- (3) an order sanctioning a prosecution under this Regulation.
- 33. (1) Within sixty days from the passing by the Administrator of any order under sub-section (3) of section 31 affecting any liability of any dealer to pay tax under this Regulation, such dealer may, by application in writing, and accompanied by a fee of one hundred rupees, require the Administrator to refer to the Court any question of law arising out of such order.

Statement
of case
to Court

- (2) If, for reasons to be recorded in writing, the Administrator refuses to make such reference, the applicant may, within thirty days of such refusal, either—
  - (a) withdraw his application (and if he does so, the fee paid shall be refunded), or
    - (b) apply to the Court against such refusal,
- (3) If upon the receipt of an application under clause (b) of subsection (2), the Court is not satisfied of the correctness of the Administrator's decision, it may require the Administrator to state the case and refer it, and on the receipt of such requisition, the Administrator shall state and refer the case accordingly.
- (4) If the Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised, thereby, it may refer the case back to the Administrator to make such additions thereto or alterations therein as the Court may direct in that behalf.
- (5) The Court upon hearing any such case shall decide the question of law raised therein, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send a copy of its judgment to the Administrator who shall pass such orders as are necessary to dispose of the case conformably to such judgment.
- (6) Where a reference is made to the Court under this section, the costs shall be in the discretion of the Court.
- (7) The payment of the amount, if any, of tax due in accordance with the order of the Administrator in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference the excess tax paid shall be refunded in accordance with the provisions of section 22.
  - (8) In this section "Court" means the High Court.
- 34. (1) The Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall, for the purposes of this Regulation have the same powers as are vested in a Civil Court under the law relating to Civil Procedure for the time being in force in Dadra and Nagar Haveli, when trying a suit, in respect of the following matters, namely:—

Powers of Commissioner, etc., in certain matters.

(a) enforcing the attendance of any person and examining him on oath or affirmation;

- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses:

and any proceeding under this Regulation before the Commissioner or any person appointed to assist him under sub-section (1) of section 3 shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code.

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(2) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit, any books of account or other documents produced before it in any proceedings under this Regulation:

Provided that a person appointed to assist the Commissioner under sub-section (1) of section 3 shall not—

- (a) impound any books of account or other documents without recording his reasons for so doing, or
- (b) retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval of the Commissioner therefor.

Offences and penalties.

# **35**. (1) Whoever—

- (a) carries on business as dealer in contravention of subsection (1) of section 12; or
- (b) fails to furnish the security demanded under sub-section (5) of section 12; or
- (c) fails, without sufficient cause, to furnish any return as required by sub-section (2) of section 17 or furnishes a false return; or
- (d) being a registered dealer, falsely represents when purchasing any class of goods, that goods of such class are covered by his certificate of registration; or
- (e) not being a registered dealer, falsely represents when purchasing goods that he is a registered dealer; or
  - (f) contravenes the provisions of section 19; or
- (g) fails, when required so to do under section 23 to keep prescribed accounts or records of sales; or
- (h) refuses to comply with any requirement made of him under sub-section (1) of section 24; or
- (i) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information; or
- (j) obstructs any officer making an inspection or a search or a seizure under section 24; or
  - (k) neglects to furnish any information required by section 26,

shall be punishable with simple imprisonment which may extend to six months or with fine or with both, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence:

Provided that no prosecution for an offence against this Regulation shall be instituted in respect of the same facts in respect of which a penalty has been imposed under section 20 or section 36.

- (2) No Court shall take cognizance of any offence under this Regulation or under the rules made thereunder except with the previous sanction of the Commissioner, and no Court inferior to that of a Judicial Magistrate of the first class shall try any such offence.
- (3) All offences punishable under this Regulation shall be cognizable and bailable.
- 36. (1) If the Commissioner or any person appointed under subsection (1) of section 3 to assist him in the course of any proceedings under this Regulation is satisfied that a dealer has maintained false or incorrect accounts with a view to suppressing his sales, purchases or stock of goods, has concealed any particulars of his sales or purchases or has furnished to, or produces before, any authority under this Regulation or the rules made thereunder, any account, return or information which is false or incorrect in any material particular, the Commissioner or such other person may, after giving the dealer a reasonable opportunity of being heard, direct him to pay, by way of penalty, in addition to the tax to which he is assessed or is liable to be assessed, an amount not exceeding one and a half times the amount of tax which would have been avoided if the accounts or figures or particulars were accepted as correct.
- (2) If any person purchasing goods is guilty of any offence under clause (d) or clause (e) of sub-section (1) of section 35 the authority which granted to him or, as the case may be, is competent to grant to him a certificate of registration under this Regulation, may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the tax which would have been levied under this Regulation in respect of the sale to him of the goods, if the offence had not been committed.
- 37. If the Commissioner is satisfied that any person has acted in contravention of the provisions of section 19, he may, after giving such person a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding one and a half times the tax collected in contravention of the said provisions.
- 38. (1) Subject to such conditions as may be prescribed the Commissioner may accept from any person alleged to have committed an offence under sub-section (1) of section 35 or under any rules made under this Regulation either before or after the commencement of any proceedings against such person in respect of such offence, by way of composition for such offence, a sum not exceeding five thousand rupees or where the offence alleged to have been committed is under clause (a) or clause (c) of that sub-section, not exceeding double the

Penalty for concealment of sales etc.

Penalty for contravening provisions regarding collection of tax by dealers.

Compounding of offences.

amount of the tax which would have been payable by such person had he complied with the provisions of this Regulation, whichever is greater.

- (2) On payment in full of such sum as may be determined by the Commissioner under sub-section (1)—
  - (a) no proceedings shall be commenced against such person as aforesaid; and
  - (b) if any proceedings have been already commenced against such person as aforesaid, such proceedings shall not be further proceeded with.

Setting up of posts and barriers.

- 39. (1) The Administrator may, by notification in the Official Gazette, set up check-posts or barriers at any place in Dadra and Nagar Haveli with a view to preventing evasion of sales tax and other dues payable under this Regulation.
- (2) Every person transporting such goods as may be notified shall, at any check-post or barrier referred to in sub-section (1), file before such officer as may be authorised by the Administrator in this behalf a declaration in such form and in such manner as may be prescribed.
- (3) The officer authorised by the Administrator under sub-section (2) or any other officer who may be authorised in this behalf may for the purpose of satisfying himself that the provisions of sub-section (2) are not being contravened, and subject to such restrictions as may be prescribed, intercept and search any vehicle which may be suspected of contravening the said provisions.

Indemnity.

40. No suit, prosecution or other legal proceedings shall lie against any employee of the Government for anything which is in good faith done or intended to be done under this Regulation or the rules made thereunder.

Returns, etc., to be confidential.

- 41. (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Regulation or in any record of evidence given in the course of any proceedings under this Regulation, other than proceedings before a Criminal Court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything to the contrary contained in any other law relating to evidence, no Court shall, save as aforesaid, be entitled to require any employee of the Government to produce before it such statement, return, accounts, documents or record or any part thereof, or to give evidence before it in respect thereof.
- (2) If, save as provided in sub-section (3), any employee of the Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.
  - (3) Nothing in this section shall apply to the disclosure-
  - (a) of any of the particulars referred to in sub-section (1) for the purpose of an investigation or a prosecution under this Regulation or under the Indian Penal Code or under any other enactment in force; or

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- (b) of such facts, to an officer of the Central Government or the Government of any State or Union territory, as may be necessary, for verification of such facts or for the purpose of enabling that Government to levy or realise any tax imposed by it.
- 42. (1) The Administrator may, by notification in the Official Gazette, make rules for carrying out the purposes of this Regulation.

Power to make rules.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—
  - (a) the manufactures or manufacturing processes not included in the scope of definition of "manufacture" contained in clause (g) of section 2;
  - (b) the period of return of goods by purchasers under clause(n) of section 2;
  - (c) the further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 4;
  - (d) the particulars to be contained in a declaration under clause (II) of sub-section (3) of section 7, the form of such declaration, the authority from which such form shall be obtainable and the manner in which such declaration is to be furnished;
  - (e) the other sales turnover which may be deducted from a dealer's gross turnover in computing his taxable turnover as defined in section 7:
  - (f) the authority to which applications for registration under sections 12, 13, 14 and 15 shall be made;
  - (g) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the forms of such certificates under sections 12, 13, 14 and 15;
  - (h) the intervals at which, and the manner in which, the tax under this Regulation shall be payable under section 17;
  - (i) the returns to be furnished under sub-section (2) of section 17 and dates by which and the authority to which, such returns shall be furnished;
  - (j) the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 20;
    - (k) the manner in which refunds under section 22 shall be made;
    - (1) the accounts and forms thereof required by section 23;
  - (m) the conditions under which the production of accounts or documents or the furnishing of information may be required under sub-section (1) of section 24;
  - (n) the restrictions and conditions subject to which the Commissioner may delegate his powers under section 25;
  - (0) the authority to which information shall be furnished under section 26;
  - (p) the manner in which, and the authority to which, appeals against assessment may be preferred under section 31;

- (q) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision and review under section 31;
- (r) the conditions under which offences may be compounded under section 38;
- (s) the manner in which, and the time within which, applications shall be made, information furnished and notices served, under this Regulation;
  - (t) any other matter required to be prescribed.
- (3) Any such rules may provide that a breach thereof shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of the offence.

Savings.

- 43. Nothing in this Regulation or the rules made thereunder shall be deemed to impose, or authorise the imposition of, a tax on any sale or purchase of any goods when such sale or purchase takes place—
  - (i) in the course of inter-State trade or commerce;
  - (ii) outside Dadra and Nagar Haveli; or
  - (iii) in the course of import of the goods into, or export of goods out of the territory of India.

Explanation.—Sections 3, 4 and 5 of the Central Sales Tax Act, 1956, shall apply for determining whether or not a particular sale or purchase takes place in the manner indicated in clause (i), clause (ii) or clause (iii).

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Power to remove difficulties. 44. If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order published in the Official Gazette, as occasion requires, make such provisions not inconsistent with the provisions of this Regulation as appears to him to be necessary or expedient for the removal of that difficulty:

Provided that no such order shall be made after the expiration of one year from the commencement of this Regulation.

Extension of Central Act 74 of 1956 to Dadra and Nagar Haveli, 45. On and from the commencement of this Regulation, the Central Sales Tax Act, 1956 as it is generally in force in the territories to which it extends, shall extend to and come into force in, Dadra and Nagar Haveli.

#### THE FIRST SCHEDULE

### [See section 7(1)(a)]

- 1. Motor vehicles including chassis of motor vehicles, spare parts of motor vehicles including batteries, motor tyres and tubes including flaps.
- 2. Motor cycles and cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts of motor cycles, motor scooters and motorettes.

- 3. Refrigerators and air-conditioning plants and component parts thereof.
- 4. Wireless reception instruments and apparatus, radios and radio gramophones, transistors, electrical valves, accumulators, amplifiers and loud-speakers and spare parts and accessories thereof.
- 5. Cinematographic equipment including cameras, projectors and sound recording and reproducing equipment, recording tape, lenses, films and parts and accessories required for use therewith excluding films certified by the Central Board of Film Censors to be predominantly educational in nature
- 6. Photographic and other cameras and enlargers, lenses, film and plates, paper and cloth and other parts and accessories required for use therewith.
  - 7. All clocks, time-pieces and watches and parts thereof.
  - 8. Iron and steel safes and almirahs.
- 9. All arms including rifles, revolvers, pistols, and ammunition for the same.
  - 10. Cigarette cases and lighters.
- 11. Tape recorders, dictaphone and other similar apparatus for recording sound and spare parts thereof.
- 12. Sound transmitting equipment including telephones and loud-speakers and spare parts thereof.
- 13. Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof.
  - 14. Binoculars, telescopes and opera glasses.
  - 15. Gramophones and component parts thereof.
  - 16. Gramophone records.
- 17. Domestic electrical appliances including fans and fluorescent lighting tubes other than torches, torch cells and filament lighting bulbs.
- 18. Perfumes and cosmetics excluding hair oils, soaps, tooth brushes and dentifrices.
  - 19. Vacuum flasks of all kinds including thermos flasks.
  - 20. Iron and steel furniture.
- 21. Sheets, cushions, pillows, mattresses and other articles made of foam rubber or plastic foam or other synthetic foam.
  - 22. Foreign liquor other than Indian made foreign liquor.
- 23. Motor spirit which is usually known as petrol, diesel oil, aviation spirit and aviation turbine fuel.
  - 24. Table cutlery including knives, forks and spoons.
  - 25. Carpets and durries (except made by khadi or handloom).
  - 26. Ivory articles, including articles inlaid with ivory.
  - 27. Ladies handbags and vanity bags.
  - 28. Playing cards.
  - 29. Furs and articles of personal and domestic use made therefrom.
  - 30. Crockery.
  - 31. Leather goods other than footwear and sports goods.

- 32. Adrema machines.
- 33. Aeroplanes and their spare parts.
- 34. Sanitary fittings (other than pipes).

#### THE SECOND SCHEDULE

[See section 7(1)(c) and section 10]

#### TAX-FREE GOODS

- 1. All cereals and pulses including all forms of rice.
- 2. Flour including atta, maida, suji and bran (except when sold in sealed containers).
  - 3. Bread.
  - 4. Meat (except when sold in sealed containers).
  - 5. Fish (except when sold in sealed containers).
  - 6. Fresh eggs.
  - 7. Livestock including poultry.
- 8. Vegetables, green and dried (excluding dehydrated vegetables), vegetable seeds and plants (other than medicinal preparations), except when sold in sealed containers.
  - 9. Fresh fruits.
  - 10. Sugar, gur, molasses and sugarcane.
  - 11. Salt.
- 12. Fresh milk, whole or separated and milk products made exclusively out of milk, without addition or admixture of any other ingredients.
  - 13. Ghee.
  - 14. Dahi, butter and khoa-
  - 15. All varieties of cotton, woollen, rayon or artificial silk fabrics,
  - 16. Cotton yarn including cotton thread.
  - 17. Newsprint and white printing paper.
  - 18. School exercise and drawing books.
  - 19. All books and periodicals.
  - 20. Fuel wood and charcoal.
  - 21. Agricultural implements.
  - 22. Matches.
  - 23. Cattle feed, including fodder and poultry feed and pig feed,
  - 24. Electrical energy.
  - 25. Fertilizers and manures including oil-cakes.
- 26. Water but not aerated water or mineral water, or water sold in bottles or sealed containers.
  - 27. Raw wool.
  - 28. Tobacco and all its products.
- 29. Country made shoes (Juties), hand-made utensils, cane and bamboo handicrafts and earthen-wares made by Khumbharas, when manufactured without the use of power and at a place other than a factory as

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defined in the Factories Act, 1948 and sold either by the maker himself or by any member of his family or by a co-operative society consisting wholly of the makers of such articles.

- 30. Achar and murraba except when sold in sealed containers.
- 31. Charkha, takli and charkha accessories.
- 32. Slate, slate pencils, takhties, black ink used for takhties, writing chalks, crayons, foot rules of the type used in schools, kalams (pens used for takhties).
  - 33. Betel leaves, betel nuts, kat and edible lime.
  - 34. Durries of the size not exceeding 2.70 sq. meters in extent,
- 35. Bardana including hessian cloth, iron strips and wood and tin used in packing, the sale of which is incidental to dealing in any of the other goods mentioned in this Schedule.
  - 36. Cotton padding.
  - 37. Articles and utensils made of Kansa (bell metal).
  - 38. Bullock carts, and spare parts thereof.
- 39 Chillies, chilly powder, tamarind and turmeric (whole or powdered), except when sold in sealed containers.
- 40. Coconut in shell and separated kernel of coconut, other than copra.
- 41. Cooked food and non-alcoholic drinks served at any one time at a price not more than three rupees per person, for consumption at or outside any restaurant, hotel, refreshment room or boarding establishment which is not a shop or establishment conducted primarily for the sale of sweetmeats, confectionery, cakes, biscuits or pastries.
  - 42. Farsan.
- 43. Films certified by the Central Board of Film Censors to be of a predominantly educational nature.
  - 44. Flowers (excluding artificial flowers).
- 45: Flower, fruit and vegetable seeds; seeds of lucerne and other fodder grass; seeds of sun-hemp; bulbs; croms; rhizomes, suckers and tubers; budgrafts; cuttings; layers and seedlings; plants.
  - 46. Plantain leaves, patrawallas and dronas.
- 47. Handloom fabrics of all varieties exclusive of handloom fabrics of pure silk, pile carpets, braids, borders, laces and trimmings.
- 48. "Khadi" and ready-made garments and other articles prepared from khadi.

Explanation.—For the purpose of this entry "khadi" means any cloth woven on handloom in India from cotton, silk or woollen yarn hand-spun in India or from the mixture of any two of such yarns.

49. Products of Village Industries as defined in the Khadi and Village Industries Commission Act, 1956.

- 50. (i) Handloom and parts thereof.
- (ii) The following handloom accessories, namely:-
  - (a) Rach.
  - (b) Fani.
  - (c) Cotton healds.
  - (d) Shuttles.
  - (e) Bobbins.
  - (f) Pins.
  - (g) Pickers.
- (iii) The following handloom auxiliary machines, namely:-
  - (a) Warping frames worked by hand.
- (b) Sectional drum type warping machine worked by hand and V-shaped creel used therewith.
- (iv) The following attachment to handlooms, namely:— Wooden dobbies.
- 51. Kumkum (including liquid kumkum).
- 52. Mangal sutra with black glass beeds sold at a price not exceeding ten rupees each.
  - 53. Bangles of price not exceeding one rupee per pair.
  - 54. Silkworm eggs and silkworm cocoons.
- 55. Stamp-papers and stamps sold by vendors duly authorised under the provisions of the Indian Stamp Act, 1899 and the Court Fees Act, 1870.

2 of 1899. 7 of 1870.

- 56. Fishing equipment other than mechanised boats and vehicles.
- 57. Tractors.
- 58. (a) The following plant protection appliances, namely:—
  - (i) Sprayers and dusters, both manual and power driven.
- (ii) Low volume atomisers for dusting and spraying as single or combined units.
  - (iii) Fog generators.
  - (iv) Seed treating drums, both manual and power driven.
  - (v) Rat fumigation pumps.
  - (vi) Soil injectors.
  - (vii) Bird and animal scaring machines.
- (viii) Spare parts and accessories for hereinbefore described plant protection appliances.
- (b) The following pesticides for plant protection, namely:—
  - (i) Insecticides and acaricides.
  - (ii) Fungicides.
  - (iii) Moluscides.
  - (iv) Herbicides (weedicides).
  - (v) Rodenticides.
  - (vi) Germicides and bactericides.
  - (vii) Fumigants.

- 59. Medicinal mixtures prepared by any registered pharmacy or dispensary under the prescription of a registered medical practitioner.
- 60. Condoms and the advertising and publicity materials relating thereto.
  - 61. Mineral ores.

# THE THIRD SCHEDULE

[See section 7(1)(b)]

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The goods specified in section 14 of the Central Sales Tax Act, 1956 as goods of special importance in inter-State trade or commerce, other than such goods, if any, included in the Second Schedule to this Regulation.

N. SANJIVA REDDY,

President.

K. K. SUNDARAM,

Secy. to the Govt. of India.

 $v_{ij} = v_{ij} + v$